

## **804 KAR 13:010. Tobacco enforcement and administration.**

RELATES TO: KRS Chapter 13B, 438.310, 1996 GA SB 137, EO 1996-619

STATUTORY AUTHORITY: KRS 438.340, EO 96-619

NECESSITY, FUNCTION, AND CONFORMITY: KRS 438.300 to 438.350 requires a seller of tobacco products to obtain proof of the age of a prospective buyer recipient of tobacco products if he has reason to believe the prospective buyer or recipient is under eighteen (18) years old; requires the establishment of the types of documentation accepted as proof of age, notification of the employees of a seller of tobacco products of the requirements of SB 137, administrative proceedings in the enforcement of SB 137, and the collection of statistics relating to the illegal sale to minors of tobacco products and enforcement of SB 137.

Section 1. Definition. "Department" means the Department of Alcoholic Beverage Control.

Section 2. Administration. The department shall be the administrative agency for hearing violations of KRS 438.305 to 438.340.

Section 3. Enforcement. (1) The department shall record and investigate complaints relating to violations of KRS 438.305 to 438.340.

(2) The department shall prepare an annual survey from data obtained from the annual inspection directed by KRS 438.330(1). The survey shall be prepared to determine the existing level of tobacco sales to minors. A copy of the report shall be submitted to the Office of Agriculture.

(3) The result of the annual survey may be inspected, copied or obtained at the office of the Department of Agriculture, Capital Plaza Tower, 7th Floor, 500 Mero Street, Frankfort, Kentucky 40601, 8 a.m. to 4:30 p.m., Monday through Friday, excepting state holidays.

Section 4. Procedures. (1) A person found to be violation of KRS 438.305 to 438.340 may be cited by the department. Any administrative citation shall conform to the requirements of KRS Chapter 13B.

(2) A person receiving an administrative citation pursuant to KRS 438.305 to 438.340 may request an administrative hearing, to be conducted by the department, to contest the allegation in the citation. The department may, in its discretion, employ one (1) or more hearing officers to conduct the administrative hearings. All administrative hearings shall be governed by KRS Chapter 13B.

(3) A fine levied pursuant to an administrative citation shall be prepayable within thirty (30) days of issuance of the citation. A person not wishing to contest the allegations in the citation may resolve the charge by mailing a check or money order in the amount set forth in the citation, payable to the Kentucky State Treasurer, to the hearing agency name and address set forth in the citation.

(4) Disposition of juvenile records. The department shall preserve the confidentiality of all juvenile records by maintaining a separate filing system, under lock and key, with access limited to the parties and their legal counsel. The department shall maintain statistical summaries of case information, including date of buy, geographical location of buy, name and address of retail seller, date of purchase, date of birth and gender of underage buyer, and disposition of case. Statistical summaries relating to underage buyers shall not identify the underage buyer by name.

(5) Physical evidence seized in the course of administrative violations of KRS 438.305 to 438.340 shall be maintained by the department in a secured evidentiary storage facility. (23 Ky.R. 1477; 1942; eff. 11-11-1996; TAm eff. 8-9-2007; TAm eff. 7-15-2014; Crt eff. 3-26-2019.)